

The meeting opened at 6:34 p.m.

Present were: Brown (Chair); McDonough (Acting Clerk); Kate Bargnesi (Member); Bordonaro, Oltman, Rechisky, & Wilson (Associate Members). McDonough arrived at 6:35 pm.

Petition No.: 3803

Premises affected: 0 + 86 River Street, 15R Charlotte Drive

Petitioner: Taylor Cove Development, LLC

Action Item: Approve Taylor Cove Condominium Documents

Present were: Brown (Chair); Bargnesi (Acting Clerk); Bordonaro, Rechisky & Wilson (Associate Members).

Attorney Donald Borenstein, of Johnson & Borenstein, 12 Chestnut St., Andover, was present on behalf of the petitioner. Brown questioned a section of the condominium documents on page 12 regarding the Master Deed reserving the right to add land and buildings, emphasizing that any change would require a change of the comprehensive permit. Borenstein stated that it is standard language and they are aware of the process to request a change to the comprehensive permit. Brown mentioned the dilemma with ownership projects such as Taylor Cove where it has been questioned if the new owners have the right to modify a comprehensive permit, referring to page 2, section 3's reference of the Condo Association Trust becoming the developer's successor. Borenstein agreed to consider the matter. There being no questions or comments from the Board or public, Bargnesi made a motion to accept the final condominium documents. Bordonaro seconded the motion & the Board voted (5-0) to accept the final condominium documents.

Petition No.: Z-14-135

Premises affected: 115 Corbett Street

Petitioner: Raleigh

Relief Requested: Special permit under Art. VIII, §3.3.5 &/or for a variance from Art. VIII, §4.1.2 to raze an existing single family dwelling & construct a new one on a lot that lacks the minimum required frontage

Present were: Brown (Chair); McDonough (Acting Clerk); Bargnesi (Member); Bordonaro, Oltman, Rechisky, & Wilson (Associate Members).

On November 17, 2014, the Board received a request from Attorney Mark Johnson on behalf of the applicant to continue the public hearing without opening to 1/8/15 with an extension to act until February 15, 2015. McDonough made a motion to continue the hearing without opening to 1/8/15. Rechisky seconded the motion & the Board voted (7-0) to continue without opening to 1/8/15.

Petition No.: Z-14-154

Premises affected: 323 Lowell Street

Petitioner: Lupoli

Relief requested: Variance from §5.2.11 &/or a special permits under §5.2.11.1.b & §5.2.11.4 to erect 5 signs, exceeding the total allowable signs & sign area

Present were: Brown (Chair); McDonough (Acting Clerk); Oltman & Wilson (Associate Members sitting in place of Boness & Bargnesi); Rechisky (Associate Member sitting in place of Magenheimer).

TEC Project Engineer, Rick Friberg, reviewed the changes as detailed in Attorney Hausler's submittal dated 12/4/14, including renderings of the proposed signs & a site plan depicting the locations of the proposed signs. This includes the pylon signs. The overall sign area has been reduced to 25 sq. ft. or less for the wall mounted sign facing Route 93. There

is no request in the application for a variance from Section 5.2.5.1 for internal illumination; however some of the proposed signs are intended to be internally illuminated. Friberg noted that the intention is to install one of the wall-mounted signs now ("Lupoli Companies") & then move it after Tower II is built, thus the request for a 2nd wall mounted sign under Section 5.2.11.4. The main pylon sign along Route 133 would still exceed the maximum allowed area of 25 sq. ft. with a proposed area of 29.4 sq. ft. in order to maintain safety. The two on-site, free-standing directory signs will be externally illuminated. The relief requested is under Section 5.2.11 for more than one pylon sign where a total of three free-standing signs are proposed. The Applicants claim that the Building Inspector has determined that the directional sign at the driveway entrance that is setback off of Route 133 does not need relief. Hausler reviewed the criteria for special permits & variances. He argued that the proposed signs will increase safety both on & off site and that the hardship is related to the unique parcel (this is the only parcel in the LS District), the lot shape & topography, the proximity to the highway, and the location of the buildings on site. The signs will not be a substantial derogation from the bylaw, they will not adversely affect the neighborhood or town and a literal enforcement of the bylaw would create a hardship.

The Board discussed the visibility of the pylon signs at Rt. 133 adjacent to the single family home and whether sign lighting should be operational only when the medical offices are open (7 am – 7 pm). Brown asked the applicant to submit an application for internal illumination since it is not on the current application. Attorney Hausler agreed. Brown asked the applicant to make the argument for internal illumination in order to get a sense of the board's direction. Friberg argued that the purpose & intent of Section 5.2.1 is to maintain public safety and that Section 5.2.3 encourages efficient communication. Due to the wooded area along the on-ramp to Route 93, visibility is decreased and therefore the 2nd wall-mounted internally illuminated sign would increase visibility. Jay Kahn, of The Sign Center, pointed out that the standard channel letters will be back lit. Friberg noted that only the white panels on the Rt. 133 signs would be illuminated. Brad Weeden, 5 Summer St., voiced support for internal illumination, adding that the pylon sign at Rt. 133 is very critical for safety due to the short distance to make a left turn into the site from Rt 133 / Rt 93 off-ramp, and that the illuminated sign facing Route 93 is a billboard & unnecessary.

There being no other questions or comments from the Board or the public, Rechisky made a motion to close the public hearing. Oltman seconded the motion & the Board voted unanimously to close the hearing. The Board then proceeded to deliberate.

The Board reiterated that the applicant must file a new variance petition for the internal illumination, but that they would discuss it now to get the sense of the Board. Rechisky pointed to the unique shape of the lot, with a unique entrance necessitating extra signs as the hardship. She did not comment on illumination. Wilson feels the sign package is comprehensive & that illumination is necessary for safety. McDonough & Oltman agreed. Rechisky voiced concern over setting precedent for signage along Route 93. Brown explained that this lot is the only lot in the LS district, establishing unique circumstances. Brown feels the signs are well designed & illumination could be approved. Oltman made a motion to grant the requested relief from 5.2.11, 5.2.11.1.a / b and 5.2.11.4. Wilson seconded the motion & the Board voted (5-0) to grant the requested relief for signage. Brown will write the decision. Counsel for the Applicant was invited to submit a draft decision for the Board's consideration.

Petition No.: Z-14-169

Premises affected: 14 Bartlet Street

Petitioner: Beirne

Relief Requested: Special permit 3.3.5 &/or variance 4.1.2 to construct rear deck that won't meet rear/side setback requirements

Present were: Brown (Chair); McDonough (Acting Clerk); Bargnesi (Member); Oltman & Bordonaro (Associate Members sitting in place of Boness & Magenheim); Rechisky & Wilson (Associate Members / Alternates).

Bargnesi disclosed that she & the applicant's wife know each other, but she feels that she can be impartial. There were no objections to her participation. Michael Beirne, & wife Robin, represented their request to construct a rear deck that will encroach into the rear & side setbacks. The house is on a corner lot & was built in 1892. The deck will create egress to the back yard by changing an existing window into a door. The deck would cover the same area as the patio & be setback 10.9' & 12.4'. It will be 12'x13' & will not extend beyond the house. Michael Anthony, direct abutter at 38 Chestnut St., spoke in favor. There being no other questions or comments from the Board or the public, Oltman made a motion to waive the view & close the public hearing. Bordonaro seconded the motion & the Board voted (5-0) to waive the view & close the hearing. The Board then proceeded to deliberate.

McDonough & Oltman voiced support for the proposal. Bordonaro made a motion to find that the house is a pre-existing, non-conforming structure, that the proposed deck extends the non-conformity thus increasing the non-conforming nature of the structure, that it will not be detrimental to the public good and to grant a special permit under 3.3.5 with the condition that the deck is constructed in conformance with the plot plan & drawings and that it is not closer to the lot lines than the house. Bordonaro also made a motion to deny the variance as moot. Oltman seconded the motion & the Board voted (5-0) to grant the special permit with conditions & deny the variance. Bordonaro will write the decision.

Petition No.: Z-14-171

Premises affected: 408 Lowell Street

Petitioner: Blondin

Relief requested: Special permit 3.3.5 &/or variance 4.1.2 to remove/reconstruct an attached garage that will not meet minimum front setback requirement

Present were: Brown (Chair); McDonough (Acting Clerk); Bargnesi (Member); Rechisky & Wilson (Associate Members, sitting in place of Magenheim & Boness); Oltman & Bordonaro (Associate Members / Alternates).

Owner Brian Blondin represented himself. He explained that the attached garage was the original house, built approximately 50 years ago, to which a new house was added in 2002. The garage does not meet the front yard minimum depth requirement. It is in disrepair and the misaligned roof creates run-off issues. He wants to move the garage 1' closer to the side lot line to eliminate the water problem caused by the overlap of the garage with the front of the main house. The Board noted that the plot plan submitted depicts the existing conditions & not the proposed setbacks, and that the drawings lack dimensions. Blondin confirmed that the proposed side setback will be 19.3' and the proposed garage will be 28.6' wide. The Board discussed whether to require the submittal of a revised plot plan as a condition of approval or to restricting the construction to at least 19' from the side lot line and that it is in substantial conformance with the drawings submitted. There being no other questions or comments from the Board or the public, Bargnesi made a motion to close the public hearing. Wilson seconded the motion & the Board voted (5-0) to close the hearing. The Board then proceeded to deliberate.

Brown pointed out that the Registry of Deeds records show that at least the lot existed in 1947 & that the garage may have conformed at the time it was constructed as a house. McDonough made a motion to grant the special permit finding that the proposed construction is not more detrimental to the neighborhood or Town and can be done by special permit with the condition that it is constructed in substantial conformance with the drawings, is not closer than 19' to the side lot line & the front wall is not closer to the street than the plane of the existing front wall and to deny the

variance as moot. Wilson seconded the motion & the Board voted (5-0) to grant the special permit with conditions & to deny the variance as moot. Wilson will write the decision.

Member Kate Bargnesi left the meeting as she had not participated in the remaining agenda items.

Petition No.: Z-14-158

Premises affected: 166 Salem Street

Petitioner: PWI Andover

Relief requested: Modification of #2739 &/or a special permit §3.3.2 &/or variance §3.1.3.C.19, 3.1.3.C.20, & 4.1.5.2 to allow continued existence of a motor vehicle service station; motor vehicle repair garage & modification of #2371 & 2239 &/or variances §5.2.5 to modify an existing sign

Present were: Brown (Chair); McDonough (Acting Clerk); Oltman, Rechisky & Wilson (Associate Members, sitting in place of Magenheimer, Bargnesi & Boness).

This is deliberation only. Brown summarized that on 11/6/14 the Board voted that the general sense was to approve the requested relief & that Brown would draft a decision to be voted on at a later date. Brown had submitted a draft decision for the Board's review. He noted that Chapter 40A, Section 10 does not allow ownership to be a condition of a variance. There being no further discussion, McDonough made a motion to approve the decision as drafted. Wilson seconded the motion & the Board voted (5-0) to approve the decision as drafted.

Approval of Minutes

11/6/14 – The minutes were revised by Brown & submitted to the secretary & other Board members prior to this meeting. There being no other comments or revisions, Oltman made a motion to approve the minutes of 11/6/14 as revised by Brown. Wilson seconded the motion & the Board voted to approve the minutes.

Other Business

Brown asked for a motion to hold the deliberation meeting for 290 Lowell Street (Z-14-106) at 7:30 a.m. on December 5, 2014. The deliberation will be convened in Conference Room A, but due to an overbooking of the room, the Board will have to vote to move the meeting to Conference Room B, across the hall. McDonough made a motion to hold the deliberation meeting at 7:30 a.m. on 12/5/14. Oltman seconded the motion & the Board voted (5-0) to convene the deliberation meeting on 12/5/14 at 7:30 a.m. in Conference Room A regarding 290 Lowell Street.

There being no other business of the Board, Wilson made a motion to adjourn the meeting. Oltman seconded the motion & the Board voted unanimously to adjourn the meeting at 8:10 p.m.